State of Arizona House of Representatives Forty-fifth Legislature First Regular Session 2001

CHAPTER 248

HOUSE BILL 2285

AN ACT

AMENDING SECTIONS 48-261, 48-262, 48-265 AND 48-266, ARIZONA REVISED STATUTES; RELATING TO SPECIAL DISTRICT BOUNDARY CHANGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 48-261, Arizona Revised Statutes, is amended to read:

48-261. <u>District creation; procedures; notice; hearing;</u> <u>determinations; petitions; definitions</u>

- A. A fire district, community park maintenance district, sanitary district or hospital district for either a hospital or urgent care center shall be created by the following procedures:
- 1. Any person desiring to propose creation of a district shall prepare and submit a district impact statement to the board of supervisors of the county in which the district is to be located. If a proposed district is located in more than one county, the impact statement shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located. The boards of supervisors of any other counties in which a portion of the district is to be located shall provide information and assistance to the responsible board of supervisors. If the person desiring to create a district pursuant to this section is unable to complete the district impact statement, the board of supervisors may assist in the completion of the impact statement if requested to do so, provided the bond required in subsection C of this section is in an amount sufficient to cover any additional cost to the county. The district impact statement shall contain at least the following information:
- (a) A description of the boundaries of the proposed district and a detailed, accurate map of the area to be included in the district.
- (b) An estimate of the assessed valuation within the proposed district.
- (c) An estimate of the change in the property tax liability, as a result of the proposed district, of a typical resident of the proposed district.
- (d) A list and explanation of benefits that will result from the proposed district.
- (e) A list and explanation of the injuries that will result from the proposed district.
- (f) The names, addresses and occupations of the proposed members of the district's organizing board of directors.
- 2. On receipt of the district impact statement, the board of supervisors shall set a day, not fewer than thirty nor more than sixty days from that date, for a hearing on the impact statement. The board of supervisors may, at any time prior to making a determination pursuant to paragraph 4 of this subsection, require that the impact statement be amended to include any information that the board of supervisors deems to be relevant and necessary.
- 3. Upon receipt of the district impact statement, the clerk of the board of supervisors shall mail, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing

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on the proposed district to each owner of taxable property and each qualified elector within the boundaries of the proposed district. The clerk of the board of supervisors shall post the notice in at least three conspicuous public places in the area of the proposed district and shall publish twice in a daily newspaper of general circulation in the area of the proposed district, at least ten days before the hearing, or, if no daily newspaper of general circulation exists in the area of the proposed district, then at least twice at any time before the date of the hearing, a notice setting forth the purpose of the impact statement, the description of the area of the proposed district and the day, hour and place of the hearing.

- 4. At the hearing called pursuant to paragraph 2 of this subsection, the board of supervisors shall hear those who appear for and against the proposed district and shall determine whether the creation of the district will promote public health, comfort, convenience, necessity or welfare. If the board of supervisors determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the district impact statement and authorize the persons proposing the district to circulate petitions as provided in this subsection. The order of the board of supervisors shall be final, but if the request to circulate petitions is denied, a subsequent request for a similar district may be refiled with the board of supervisors after six months from the date of such denial.
- 5. After receiving the approval of the board of supervisors as provided in paragraph 4 of this subsection, the person proposing the district may circulate and present petitions to the board of supervisors of the county in which the district is located.
- 6. The petitions presented pursuant to paragraph 5 of this subsection SHALL COMPLY WITH THE PROVISIONS REGARDING PETITION FORM IN SECTION 48-265 AND VERIFICATION IN SECTION 48-266 AND shall:
- (a) At all times, contain a description of the boundaries of the proposed district and a detailed, accurate map of the proposed district and the names, addresses and occupations of the proposed members of the district's organizing board of directors. No alteration of the proposed district shall be made after receiving the approval of the board of supervisors as provided in paragraph 4 of this subsection.
- (b) IF A PETITION OF PROPERTY OWNERS, be signed by more than one-half of the property owners in the area of the proposed district.
- (c) If A PETITION OF PROPERTY OWNERS, be signed by persons owning collectively more than one-half of the assessed valuation of the property in the area of the proposed district.
- (d) IF A PETITION OF QUALIFIED ELECTORS, be signed by more than one-half of the qualified electors within the boundaries of the proposed district.

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- 7. On receipt of the petitions, the board of supervisors shall set a day, not fewer than ten nor more than thirty days from that date, for a hearing on the petition.
- 8. Prior to the hearing called pursuant to paragraph 7 of this subsection, the board of supervisors shall determine the validity of the petitions presented.
- 9. At the hearing called pursuant to paragraph 7 of this subsection, the board of supervisors shall, if the petitions are valid, order the creation of the district. The board of supervisors shall enter its order setting forth its determination in the minutes of the meeting, not later than ten days from the day of the hearing, and a copy of the order shall be filed in the county recorder's office. The order of the board of supervisors shall be final, and the proposed district shall be created thirty days after the board of supervisors votes to create the district. A decision of the board of supervisors under this subsection is subject to judicial review under title 12, chapter 7, article 6.
- B. For the purpose of determining the validity of the petitions presented pursuant to subsection A, paragraph 5 of this section:
- 1. Qualified electors shall be those persons qualified to vote pursuant to title 16.
- 2. For the purposes of fulfilling the requirements of subsection A, paragraph 6, subdivisions (b) and (c) of this section, property held in joint tenancy MULTIPLE OWNERSHIP shall be treated as if it had only one property owner, so that the signature of only one of the owners of property held in joint tenancy MULTIPLE OWNERSHIP is required on the formation petition.
 - 3. The value of property shall be determined as follows:
- (a) In the case of property assessed by the county assessor, values shall be the same as those shown on the last assessment roll of the county containing such property.
- (b) In the case of property valued by the department of revenue, the values shall be those determined by the department in the manner provided by law, for municipal assessment purposes. The county assessor and the department of revenue, respectively, shall furnish to the board of supervisors, within twenty days after such a request, a statement in writing showing the owner, the address of each owner and the appraisal or assessment value of properties contained within the boundaries of the proposed district as described in subsection A of this section.
- C. The board of supervisors may require of the person desiring to propose creation of a district pursuant to subsection A, paragraph 1 of this section a reasonable bond to be filed with the board at the start of proceedings under this section. The bond shall be in an amount sufficient to cover costs incurred by the county if the district is not finally organized. County costs covered by the bond include any expense incurred from completion of the district impact statement, mailing of the notice of hearing to district property owners and electors, publication of the notice

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of hearing and other expenses reasonably incurred as a result of any requirements of this section. The requirements of this subsection do not apply to proposed districts having fewer than one hundred qualified electors.

- D. If a district is created pursuant to this section, the cost of publication of the notice of hearing, the mailing of notices to electors and property owners and all other costs incurred by the county as a result of the provisions of this section shall be a charge against the district.
- E. If a proposed district would include property located within an incorporated city or town, in addition to the other requirements of subsection A of this section, the board shall approve the creation and authorize the circulation of petitions only if the governing body of the city or town has by ordinance or resolution endorsed such creation.
- F. Except as provided in section 48-2001, subsection A, the area of a district created pursuant to this section shall be contiguous.
- G. A district organized pursuant to this section shall have an organizing board of directors to administer the affairs of the district until a duly constituted board of directors is elected as provided in this title. The organizing board shall have all the powers, duties and responsibilities of an elected board. The organizing board shall consist of the three individuals named in the district impact statement and the petitions presented pursuant to subsection A of this section. If a vacancy occurs on the organizing board, the remaining board members shall fill the vacancy by appointing an interim member. Members of the organizing board shall serve without compensation but may be reimbursed for actual expenses incurred in performing their duties. The organizing board shall elect from its members a chairman and a clerk.
 - H. For purposes of this section:
- 1. "Assessed valuation" does not include the assessed valuation of property that is owned by a county.
 - 2. "Property owner" does not include a county.
 - Sec. 2. Section 48-262, Arizona Revised Statutes, is amended to read: 48-262. <u>District boundary changes; procedures; notice; hearing:</u>

determinations; petitions; definitions

- A. Except as prescribed by subsection H of this section, a fire district, community park maintenance district or sanitary district shall change its boundaries by the following procedures:
- 1. Any person desiring to propose any change to the boundaries of a district shall prepare and submit a boundary change impact statement to the governing body of the district. The boundary change impact statement shall contain at least the following information:
- (a) A description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area.
- (b) An estimate of the assessed valuation within the boundaries of the proposed change.

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- (c) An estimate of the change in the tax rate of the district if the proposed change is made.
- (d) An estimate of the change in the property tax liability, as a result of the proposed change, of a typical resident of a portion of the district, not in the area of the proposed change, before and after the proposed change and of a typical resident of the area of the proposed change.
- (e) A list and explanation of benefits that will result from the proposed change to the residents of the area and of the remainder of the district.
- (f) A list and explanation of the injuries that will result from the proposed change to residents of the area and of the remainder of the district.
- 2. On receipt of the boundary change impact statement, the governing body shall set a day, not fewer than twenty nor more than thirty days from that date, for a hearing on the boundary change impact statement. The board of supervisors may at any time prior to making a determination pursuant to paragraph 5 of this subsection require that the impact statement be amended to include any information that the board of supervisors deems to be relevant and necessary.
- 3. Upon receipt of the boundary change impact statement, the clerk of the governing body shall mail, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing on the proposed change to each owner of taxable property and each qualified elector within the boundaries of the proposed change. The clerk of the governing body shall post the notice in at least three conspicuous public places in the area of the proposed change and also publish twice in a daily newspaper of general circulation in the area of the proposed change, at least ten days before the hearing, or if no daily newspaper of general circulation exists in the area of the proposed change, then at least twice at any time before the date of the hearing, a notice setting forth the purpose of the impact statement, the description of the boundaries of the proposed change and the day, hour and place of the hearing.
- 4. Upon receipt of the boundary change impact statement the clerk shall also mail notice, as provided in paragraph 3 of this subsection, to the chairman of the board of supervisors of the county in which the district is located. The chairman of the board of supervisors shall order a review of the proposed change and may submit written comments to the governing body of the district within ten days of receipt of the notice.
- 5. At the hearing called pursuant to paragraph 2 of this subsection, the governing body shall consider the comments of the board of supervisors, hear those who appear for and against the proposed change and determine whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If the governing body determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the impact statement and authorize the persons proposing the

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change to circulate petitions as provided in this subsection. The order of the governing body shall be final, but if the request to circulate petitions is denied, a subsequent request for a similar change may be refiled with the governing body after six months from the date of such denial.

- 6. A person aggrieved by a decision of the governing body under this section may appeal to the board of supervisors of the county in which the district, or a majority of the district, is located, and a person aggrieved by a decision of the board of supervisors may appeal to the superior court in the county in the manner prescribed by title 12, chapter 7, article 6 and by posting a bond equal to the probable costs conditioned that the appellant will prosecute his appeal and will pay all costs that accrue in the court if a judgment is rendered affirming the decision of the board of supervisors. The court shall require the district governing body to pay all costs that accrue in the court, including reasonable attorney fees, and the bond shall be returned to the appellant, if a judgment is rendered in favor of the appellant.
- 7. After receiving the approval of the governing body as provided in paragraph 5 of this subsection and provided no appeal filed pursuant to paragraph 6 of this subsection remains unresolved, the person proposing the change may circulate and present petitions to the governing body of the district.
- 8. The petitions presented pursuant to paragraph 7 of this subsection SHALL COMPLY WITH THE PROVISIONS REGARDING PETITION FORM IN SECTION 48-265 AND VERIFICATION IN SECTION 48-266 AND shall:
- (a) At all times, contain a description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area included within the proposed change. No alteration of the described area shall be made after receiving the approval of the governing body as provided in paragraph 5 of this subsection.
- (b) IF A PETITION OF PROPERTY OWNERS, be signed by more than one-half of the property owners within the boundaries of the proposed change.
- (c) IF A PETITION OF PROPERTY OWNERS, be signed by persons owning collectively more than one-half of the assessed valuation of the property within the boundaries of the proposed change.
- (d) IF A PETITION OF QUALIFIED ELECTORS, be signed by more than one-half of the qualified electors within the boundaries of the proposed change.
- 9. On receipt of the petitions, the governing body shall set a day, not fewer than ten nor more than thirty days from that date, for a hearing on the request.
- 10. Prior to the hearing called pursuant to paragraph 9 of this subsection, the board of supervisors shall determine the validity of the petitions presented.
- 11. At the hearing called pursuant to paragraph 9 of this subsection, the governing body shall, if the petitions are valid, order the change to the

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boundaries. The governing body shall enter its order setting forth its determination in the minutes of the meeting, not later than ten days from the day of the hearing, and a copy of the order shall be recorded in the county recorder's office. The order of the governing body shall be final, and the proposed change shall be made to the district boundaries thirty days after the governing body votes. An appeal of the order to change the boundaries to the board of supervisors pursuant to paragraph 6 of this subsection must be filed with the board of supervisors during such thirty day period.

- B. For the purpose of determining the validity of the petitions presented pursuant to subsection A, paragraph 7 of this section:
- 1. Qualified electors shall be those persons qualified to vote pursuant to title 16.
- 2. For the purposes of fulfilling the requirements of subsection A, paragraph 8, subdivisions (b) and (c) of this section, property held in joint tenancy MULTIPLE OWNERSHIP shall be treated as if it had only one property owner, so that the signature of only one of the owners of property held in joint tenancy MULTIPLE OWNERSHIP is required on the boundary change petition.
 - 3. The value of property shall be determined as follows:
- (a) In the case of property assessed by the county assessor, values shall be the same as those shown on the last assessment roll of the county containing such property.
- (b) In the case of property valued by the department of revenue, the values shall be those determined by the department in the manner provided by law, for municipal assessment purposes. The county assessor and the department of revenue, respectively, shall furnish to the governing body, within twenty days after such a request, a statement in writing showing the owner, the address of each owner and the appraisal or assessment value of properties contained within the area of a proposed change as described in subsection A of this section.
- If the change in the boundaries proposed pursuant to subsection A of this section would result in a withdrawal of territory from an existing district, the petitions shall be approved by the governing body only if the proposed withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size. IF THE CHANGES PROPOSED WOULD RESULT IN AN INCREASE IN THE TERRITORY OF THE DISTRICT, THE PETITIONS SHALL BE APPROVED BY THE GOVERNING BODY ONLY IF THE PROPOSED ADDITIONS WOULD BE CONTIGUOUS TO THE EXISTING DISTRICT AS PRESCRIBED BY SECTION 9-471. SUBSECTION H AND IF THE INCREASE IN TERRITORY DOES NOT RESULT IN A DISTRICT THAT COMPLETELY SURROUNDS A TERRITORY THAT IS IN AN UNINCORPORATED AREA OF THE COUNTY AND THAT IS NOT INCLUDED IN THE DISTRICT, FOR PURPOSES OF DETERMINING WHETHER THE ADDITION PROPOSED TO BE INCORPORATED INTO THE DISTRICT IS CONTIGUOUS, THE ADDITION IS DEEMED CONTIGUOUS NOTWITHSTANDING THAT LAND OWNED BY OR UNDER THE JURISDICTION OF THE GOVERNMENT OF THE UNITED STATES, THIS STATE OR ANY POLITICAL SUBDIVISION, OTHER THAN AN INCORPORATED CITY, INTERVENES BETWEEN THE PROPOSED ADDITION AND THE DISTRICT BOUNDARY.

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ANY WHOLE PARCEL MAY BE ADDED TO THE DISTRICT NOTWITHSTANDING THE PROVISIONS OF SECTION 9-471 REGARDING MINIMUM SIZE LIMITATIONS.

- D. If the impact statement described in subsection A of this section relates to the withdrawal of property from a district, in addition to the other requirements of subsection A of this section, the governing body shall also determine:
- 1. If the district has any existing outstanding bonds or other evidences of indebtedness.
- 2. If those bonds were authorized by an election and issued during the time the property to be withdrawn was lawfully included within the district.
 - E. If the conditions of subsection D of this section are met:
- 1. The property withdrawn from the district shall remain subject to taxes, special assessments or fees levied or collected to meet the contracts and covenants of the bonds. The board of supervisors shall provide for the levy and collection of such taxes, special assessments or fees.
 - 2. The governing body shall:
- (a) Annually determine the amount of special property taxes, special assessments or fees that must be levied and collected from property withdrawn from the district and the mechanism by which such amount is to be collected.
- (b) Notify the board of supervisors on or before the third Monday in July of the amount determined in subdivision (a) of this paragraph.
- 3. Property withdrawn from an existing district shall not be subject to any further taxes, special assessments or fees arising from the indebtedness of such district except as provided in this subsection.
- F. If the statement described in subsection A, paragraph 1 of this section requests the annexation of property located within an incorporated city or town, in addition to the other requirements of subsection A of this section, the governing body shall approve the district boundary change impact statement and authorize the circulation of petitions only if the governing body of the city or town has by ordinance or resolution endorsed such annexation and such annexation is authorized pursuant to this title.
- G. Except as provided in subsection C of this section and section 48-2002, no change in the boundaries of a district pursuant to this section shall result in a district which contains area that is not contiguous.
- H. Notwithstanding subsection A of this section, any property owner whose land is within a county that contains a sanitary district or fire district and whose land is adjacent to the boundaries of the sanitary district or fire district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. If the governing body determines that the inclusion of that property will benefit the district and the property owner, the boundary change may be made by order of the governing body and is final on the recording of the governing body's order that includes a description of the property that is added to the district. A petition and impact statement are not required for

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an amendment to a sanitary district's or fire district's boundaries made pursuant to this subsection.

- I. For purposes of this section:
- 1. "Assessed valuation" does not include the assessed valuation of property that is owned by a county.
 - 2. "Property owner" does not include a county.
 - Sec. 3. Section 48-265, Arizona Revised Statutes, is amended to read: 48-265. <u>Petitions</u>; form; verification of signatures
- A. A petition of registered voters that is submitted to comply with section 48-261, subsection A, paragraph 6, subdivision (d) OR SECTION 48-262, SUBSECTION A, PARAGRAPH 8 shall be in a form substantially similar to the form required by sections 19-101, 19-112 and 19-121 and SHALL BE REVISED TO APPLY TO A PETITION REGARDING A DISTRICT THAT IS GOVERNED BY THIS ARTICLE. THE PETITION shall contain a heading that clearly identifies the type of petition circulated and a statement that clearly describes the type of action being proposed. A PETITION FORM THAT IS APPROVED BY THE SECRETARY OF STATE SATISFIES THE FORM REQUIREMENTS OF THIS SECTION.
- B. The board of supervisors or other governing body of a political subdivision that receives a petition of registered voters pursuant to this section shall submit a facsimile copy of the signature sheets to the county recorder for verification. The county recorder shall conduct a signature verification that is substantially similar to the verification required by title 19, chapter 1. If the minimum number of signatures required is fewer than two hundred, the county recorder may follow either a verification procedure that is substantially similar to the verification procedure prescribed by title 19, chapter 1 or a verification procedure that is substantially similar to the verification procedure prescribed by section 19-208.02. The county recorder shall report the result of the verification to the board of supervisors or other governing body within ten days, excluding Saturdays, Sundays and other legal holidays, after receiving the facsimile copy of the signature sheets.
 - Sec. 4. Section 48-266, Arizona Revised Statutes, is amended to read: 48-266. Petitions of property owners; form; verification
- A. A petition of property owners that is submitted to comply with section 48-261, subsection A, paragraph 6, subdivisions (b) and (c) OR SECTION 48-262, SUBSECTION A, PARAGRAPH 8 shall contain a heading that clearly identifies the type of petition circulated and a statement that clearly describes the type of action being proposed. The petition shall be in a form similar to the form required by sections 19-101, 19-112 and 19-121 except that the petition shall not refer to a circulator and it shall not require an affidavit of circulator.
- B. The board of supervisors or other governing body of a political subdivision that receives a petition pursuant to this section shall submit a facsimile copy of the signature sheets to the county assessor for verification. The county assessor shall:

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- 1. Verify that the petition contains the names of more than one-half of the property owners in the area of the proposed district.
- 2. Determine the total assessed valuation of the property owned by the persons whose names are signed on the petition.
- C. The county assessor shall report the results of the verification to the board of supervisors or other governing body within ten days after receiving the facsimile copy of the signature sheets, not including Saturdays, Sundays and other legal holidays.

APPRIVED BY THE GOVERNOR APRIL 25, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2001.

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HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

<u>April 19</u> , 2001,
by the following vote:48Ayes,
Nays, 4 Not Voting
Speaker of the House
Horman J. Move Chief Clerk of the House
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR
This Bill was received by the Governor this
at 10:58 o'clock A M.
Approved this day of
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Governor of Arizona EXECUTIVE
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H.B. 2285

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